

Appl. No. 09/818,125
Amdt. Dated May 23, 2005
Reply to Office Action of March 22, 2005

Attorney Docket No. 81747.0191
Customer No. 26021

REMARKS

This application has been carefully reviewed in light of the Office Action dated March 22, 2005. Claims 1-23 remain in this application. Claims 1, 16, and 23 are the independent Claims. It is believed that no new matter is involved in the amendments or arguments presented herein. Reconsideration and entrance of the amendment in the application are respectfully requested.

Perfecting Foreign Priority Claim

The present invention claimed foreign priority from Japanese Application No. No. 2000-087280, dated March 27, 2000, and submitted a certified copy of the priority document on submission of March 26, 2001. Moreover, Applicant is submitting a translation of the priority document and a translation accuracy statement concurrently with the preset submission, thereby perfecting the foreign priority claim. Recordation and acknowledgment of the foreign priority claim and the perfecting thereof are respectfully requested.

Art-Based Rejections

Claims 16-23 were rejected under 35 U.S.C. § 102(e) over European Patent Application No. 1 035 527 A2 (Yanagisawa). Moreover Claims 10-15 were rejected under 35 U.S.C. § 103(a) over Yanagisawa, and over Yanagisawa in view of U.S. Patent No. 6,650,429 (Marshall). Applicant respectfully submits Yanagisawa is not a prior art to the present invention and that the claims herein are thus patentable in light of the clarifying amendments above and the arguments below.

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Yanagisawa Is Not a 35 U.S.C. 102(e) Prior Art to Present Invention

Yanagisawa is a foreign patent application filed before the AIPA date October 23, 2000. Base on the rules and regulations set forth in MPEP, Yanagisawa is not entitled to a 35 U.S.C. 102(e) date.

For Examiner's convenience, Applicant respectfully recites the relevant portion of MPEP 706.02(f)(1) below:

I.(C)(3) If the international application has an international filing date prior to November 29, 2000, apply the reference under the provisions of 35 U.S.C. 102 and 374, prior to the AIPA amendment:

...

(b) For U.S. application publications and WIPO publications directly resulting from international applications under PCT Article 21(2), never apply these references under 35 U.S.C. 102(e). These references may be applied as of their publication dates under 35 U.S.C. 102(a) or (b);

The international filing date of Yanagisawa is October 23, 2000, prior to the AIPA date November 29, 2000. (*See, Yanagisawa; Page 1, No. (22)*). According to the recited portion of MPEP 706.02(f)(1), Yanagisawa is not entitled to a §102(e) date and is not §102(e) prior art. Reconsideration and withdrawal of rejections are respectfully requested.

Even if Yanagisawa is assumed to have a valid §102(e) date, the priority date of the present invention predates the assumed Yanagisawa §102(e) date. For Examiner's convenience, Applicant respectfully recites relevant portion of MPEP 706.02(f)(1) below:

I.(C)(1) If the potential reference resulted from, or claimed the benefit of, an international application, the following must be determined:

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(1) If the international application meets the following
three conditions:

...
then the international filing date is a U.S. filing date for
prior art purposes under 35 U.S.C. 102(e).

In view of the recited portion of MPEP, should Yanagisawa qualify as §102(e) prior art, the only possible §102(e) date of Yanagisawa is the international filing date October 3, 2000. (*See, Yanagisawa; Page 1, No. (22)*). The present invention claims and perfects foreign priority to Japanese Patent Application No. 2000-087280 dated March 27, 2000. Accordingly, the priority date of the present invention predates the possible Yanagisawa §102(e) date.

In view of the foregoing, Yanagisawa cannot be said to be a §102(e) prior art to the present invention. Reconsideration and withdrawal of rejections are respectfully requested.

Yanagisawa Is Not a 35 U.S.C. 103(a) Prior Art to Present Invention

Present invention claims and perfects foreign priority claim to Japanese Application No. No. 2000-087280 dated March 27, 2000. Yanagisawa was published on September 13, 2000. (*See, Yanagisawa; Page 1, No. (43)*). Accordingly, the priority date of present invention predates the publication date of Yanagisawa.

In view of the foregoing, Yanagisawa cannot be an 103(a) prior art to the present invention. Reconsideration and withdrawal of rejections are respectfully requested.

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Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6809 to discuss the steps necessary for placing the application in condition for allowance.

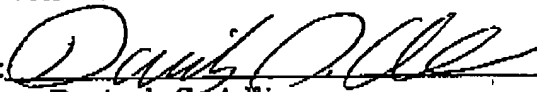
If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

Date: May 23, 2005

By:



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